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## Law School Attire: A Call for a Uniform Uniform Code

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## LAW SCHOOL ATTIRE: A CALL FOR A UNIFORM UNIFORM CODE

Erik M. Jensen\*

“A T-shirt says ‘hot stock options,’ but a tie says ‘401(k) plan.’”<sup>1</sup>

Well, yes. That’s it exactly. Style of dress matters, and clothing in American law schools should reflect good, traditional values. A tie with regimental stripes has a lot more class than a polo shirt or any other form of “Pimp Chic.”<sup>2</sup> Legal-academic attire should complement the majesty of the law. In short,<sup>3</sup> we need a Uniform Uniform Code (“UUC”) to regulate law school attire.

Not for students. I give up on them.<sup>4</sup> Sure, I’d be happy to return to a world in which male students appeared in class each day in coat and tie<sup>5</sup> and female students wore the feminine equivalent.<sup>6</sup> In fact, I’d be

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\* The buttoned-down David L. Brennan Professor of Law, Case Western Reserve University.

1. *Hanging Up the Tie*, SPECTRUM (MIT, Boston, MA), Winter 2001, at 16 (quoting management professor Simon Johnson).

2. Matt Labash, *Goodbye, Cool World*, WKLY. STANDARD, May 29, 2000, at 4 (describing Pimp Chic).

3. And decidedly not in shorts.

4. But see Andy Guess, *Business (School) Casual*, INSIDE HIGHER EDUC. Aug. 22, 2007, <http://insidehighered.com/news/2007/08/22/dress> (describing business casual dress requirement imposed for professors and students in Department of Marketing at Illinois State’s College of Business).

5. Maybe even with an eyeshade, a la Roscoe Pound. “In the middle 1930s at Harvard it was customary for virtually every law student to wear a green eyeshade, which clamped over one’s ears like a pair of glasses. Ultimately I grew so dependent upon this green eyeshade that it became a part of my very nature.” THE FORGOTTEN MEMOIR OF JOHN KNOX 18 (Dennis J. Hutchinson & David J. Garrow eds., Univ. of Chicago Press 2002) [hereinafter KNOX]. When Knox clerked for Justice James McReynolds, however, the reaction was unfavorable. “‘Take it off!’ ordered the Justice. ‘It looks like hell. I don’t ever want to see it again.’” *Id.* at 19. McReynolds was a jerk, but he made the right call that time.

6. I express no views on the appropriate style of dress for those who fit in neither category.

happy to return to a world in which students dressed in anything at all in the spring, summer, and fall.<sup>7</sup> Studying taxation has to be easier if the person sitting next to you isn't exposing his or her buttocks.<sup>8</sup> And, although underdressed students wind up learning something about the bottom line, how can they understand the concept of white-collar crime?

But time doesn't run backwards, eggs can't be unscrambled, and body parts won't be put back inside student clothing.<sup>9</sup> It's 2008, after all, and students are busting out all over.

The students may be a lost cause,<sup>10</sup> but the professoriate is something else.<sup>11</sup> It's been said that "[a]cademics are still the worst-dressed middle-class occupational group in America,"<sup>12</sup> yet we're the folks who should be the role models.<sup>13</sup> Instead, not only do we dress

7. For Sun Belt schools, this sentence ends after "at all." Folks in those places might be laughing a lot, but no one is ever in stitches. When it comes to attire, the Sun Belt is unbuckled throughout the year.

8. The "business casual" required at Illinois State's business school isn't much, *see* Guess, *supra* note 4, but it's better than *nothing*. *See Id.* ("Short, tight skirts that ride halfway up the thigh are inappropriate for the classroom."); *See also* Posting of John K. Wilson to <http://collegefreedom.blogspot.com/2007/08/no-collared-shirt-no-dress-shoes-no.html>. Students don't understand how important it is to cover one's behind in the legal profession. *Cf.* Asra Q. Nomani, *Brief Skirmish, or How the Thong Is Making Its Mark*, WALL ST. J., June 8, 1999, at A1. The term "thong" is sometimes used to refer to those foot thingies, *see infra* notes 21-22 and accompanying text, but the thong "making its mark"—the thongs for the memories—is something else altogether. (One can imagine this linguistic confusion leading to some really awkward moments at the department store.)

9. *But see, South Texas Law Students Urged to Be More Professional*, CHRON. HIGHER EDUC., Oct. 3, 1997, at A49 (discussing a memo sent by South Texas College of Law President Frank Read to students urging professional dress). At South Texas, an Association of American Law Schools accreditation team had noted the "disruptive behavior and dress of some students," singling out baseball caps for particular criticism. *Id.*; *see also* JOSEPH EPSTEIN, *NARCISSUS LEAVES THE POOL: FAMILIAR ESSAYS* 284 (1999) ("How many young men today are even aware that wearing a hat indoors is thought bad form?").

10. It wasn't always so. *See* Benjamin J. Stein, *Just Peachie*, AM. SPECTATOR, July/Aug. 2000, at 60, 64:

How well I recall sitting in the utterly dreary gray law book stacks in the Sterling Law Library looking for some case, feeling utterly miserable and lost. Then I glimpsed my handsome Peal loafers and felt as if I might actually have some merit even if I could not find that one case.

11. It certainly is.

12. Alison Schneider, *Frumpy or Chic? Tweed or Kente? Sometimes Clothes Make the Professor*, CHRON. HIGHER EDUC., Jan. 23, 1998, at A12 (quoting Valerie Steele, Chief Curator at the Museum of the Fashion Institute of Technology and Editor of *Fashion Theory*).

13. Other professions are similarly afflicted. *See, e.g.,* Ronald W. Dworkin,

badly—“[S]truggle [N]o. 1” facing the president of the American Association of University Professors is that “other leaders expect him to wear a tie from time to time”<sup>14</sup>—but we’ve also convinced everyone else to worship grunginess. As clothing theorist Nicholas Antongiavanni explains, “many came to believe the protestation of academics that taste was nothing but a fraud perpetrated by the great to keep down the people.”<sup>15</sup>

Whatever the students do, *we* ought to have standards. (Even crash dummies have dress codes.<sup>16</sup>) In Philip Roth’s *The Professor of Desire*, Professor David Kepesh proposes to tell his literature students that “[h]owever you may choose to attire yourselves—in the getup of garage mechanic, panhandler, tearoom gypsy, or cattle rustler—I still prefer to appear before you to teach wearing a jacket and a tie.”<sup>17</sup> Right on.<sup>18</sup>

Besides, the world of legal practice may be moving back to serious dress.<sup>19</sup> Indeed, parts of that world stood fast all along,<sup>20</sup> with no flip-

Commentary, *Why Doctors are Down*, COMMENTARY May 2001, at 43, 43 (“In a . . . national anesthesiology journal, a physician [complained] about the poor dress of his colleagues. Many, he said, now go to work in open-collared shirts and jeans, thus showing a lack of respect for the medical profession.”).

14. John Gravois, *A Tenured Radical Takes Office*, CHRON. HIGHER EDUC., June 9, 2006, at A10, A11. The “tenured radical” was joking—I think.

15. NICHOLAS ANTONGIAVANNI, *THE SUIT: A MACHIAVELLIAN APPROACH TO MEN’S STYLE* 180 (2006).

16. See Anna Wilde Mathews, *They’re Pretty in Pink, But Crash Dummies Couldn’t Care Less—Feds Do Have a Dress Code, So When Buying Retail, Car Makers Get Odd Looks*, WALL ST. J., Dec. 15, 1999, at A1 (“Federal regulations required that automotive crash dummies be dressed in undergarments the color of ‘tea rose’ when they slammed into concrete walls.”).

17. PHILIP ROTH, *THE PROFESSOR OF DESIRE* 124 (1977), *quoted in* PAUL FUSSELL, *UNIFORMS: WHY WE ARE WHAT WE WEAR* (2002). Kepesh also writes that he is “one of the few remaining professors who address students in the classroom as ‘Mr.’ and ‘Miss,’ rather than by their given names.” *Id.* Me too.

18. At least it’s right on if you don’t keep reading, “though, as the observant will record, generally it will be the same jacket and the same tie.” *Id.* at 125.

19. See Warren St. John, *In Bold English Shirts, Enter the New Peacocks*, N.Y. TIMES, Mar. 10, 2002, § 9, at 1 (noting that “[a]s corporate casual bites the dust, men obsess over spread collars”); Joseph Epstein, *Hats Off*, WKLY. STANDARD, Nov. 15, 1999, at 4 (“A friend who has a men’s shop tells me that nowadays his only customers for suits are lawyers.”); see also Teri Agins & Lisa Vickery, *Heads Up—The Suits Are Coming*, WALL ST. J., Apr. 6, 2001, at B1. But see Christian Binkley, *Law Without Suits: New Hires Flout Tradition*, WALL ST. J., Jan. 31, 2008, at D8 (quoting law firm partner on “abysmal” attire of associates).

20. See ANTONGIAVANNI, *supra* note 15, at 121 (“[P]artners in white shoe law firms and investment banks prefer expensive clothes in solid colors—‘subdued and rich, as only these bastards know how to do it . . . .’”).

flops.<sup>21</sup> Paul Fussell writes that, “[d]espite some relaxation of rigor, it remains true that the dark business suit (or its female equivalent) is still close to obligatory, at least in businesses that have little truck with novelty, *like serious law*, most banks, and the upper reaches of the securities markets.”<sup>22</sup>

*Serious law?* That’s what we do in law school (except for the international law types).<sup>23</sup> But we don’t dress seriously.

We can all agree, can’t we, that the concept of “casual days” has not worked in other settings. If casual days are occasional, say Fridays-only, the effect has been to *increase* the tension in choosing clothing. “It has resulted in many a lawyer standing in front of their [sic] clothes hangers on Friday morning, often in tears, wondering what to wear to the office.”<sup>24</sup> Or if every day is “casual” day—“dorkwear” day<sup>25</sup>—nothing is casual. “It took about a month of the casual fad to reveal that an equally rigid uniform code was now in action, and the obligatory polo shirt came into its own.”<sup>26</sup>

If we’re going to have an implicit dress code anyway, we might as

21. *But, omigod*, see Sharon Waxman, *Hollywood Casual, Down to Their Toes*, N.Y. TIMES, June 29, 2006, at G1 (“Los Angeles is once again resetting the standard for dressing down. No longer content to banish the necktie, untuck the shirttails and let the stubble grow wild, Angelenos this summer are enthusiastically adopting flip-flops . . .”). Even John Kerry didn’t *wear* the things in public.

22. FUSSELL, *supra* note 17, at 177 (emphasis added). Sharon Waxman writes that “[i]t may still be difficult to imagine a pair of flip-flops, even expensive ones, at a Wall Street investment house . . .” Waxman, *supra* note 21, at G1. Thank heaven for that, although the phrase “may still be” seems to hint that it’s only a matter of time. See also Guy Trebay, *Campaign Chic: Not Too Cool, Never Ever Hot*, N.Y. TIMES, July 22, 2007, § 9, at 1 (noting our “age of iMoguls in cargo shorts”).

23. See ROBERTSON DAVIES, *WHAT’S BRED IN THE BONE* 212-13 (Elizabeth Sifton Books, Viking 1985) (describing a person “ostensibly studying international law; I am sure you know what a vague area that can be, if somebody wants to hang around a university.”).

24. *Thank God It’s Not Casual Friday*, CLEV. DAILY LEGAL NEWS, July 14, 1999, at 1; see also Terry Pristin, *The Suits Loosen Up, In an Uneasy Way*, N.Y. TIMES, Apr. 6, 2000, at B1 (“It was easy just to get up and throw a suit on. Now it’s a bit more of a pain because I have no business casual clothes.”) (quoting twenty-three year old investment banker).

25. See Labash, *supra* note 2, at 4 (referring, appropriately, to “Casual Friday dorkwear”).

26. FUSSELL, *supra* note 17, at 5. Employers who tout their casual dress requirements are pulling a fast one. “It’s a perk that doesn’t cost the firms a thing.” Jill Schachner Chanen, *Code Enforcement: A Chicago Litigator Considers Whether to Require Formal Suing for New Associates*, 92 A.B.A. J. 60 (2006) at (quoting a litigator who “feels that looking the part of a serious lawyer is part of the package he is selling”).

well get it right and change the flat attire. Hence the UUC, to be promulgated by the Uniform Commissioners.

Although I use the word “Code,” a detailed statutory regime shouldn’t be necessary.<sup>27</sup> It’s my goal with the UUC to establish general principles to deal with pressing issues and then to let the common law iron out the wrinkles over time.<sup>28</sup> The most general of the principles is, in the words of Glanville Williams, to “[r]emember the importance of neat and sober suiting when you are in court, or indeed out of it.”<sup>29</sup> The suiting should be sober even if the wearer isn’t.

My effort to change clothes might not be fully successful, but it won’t take much to make significant improvements in professorial attire. As Michael Berube says, “[d]ressing fashionably in academia is like clearing the four-foot high jump. The bar is not that high.”<sup>30</sup>

Consistent with the subject matter, this essay proceeds haphazardly. (If you lose the thread, it doesn’t matter.) Part I discusses why professors insist on dressing like children, and Parts II and III present the case for adult dress. The heart of the article is Part IV, which provides a draft UUC. Although the draft doesn’t explicitly mandate neckties, Part V defends the tie as an essential part of male professorial attire. Part VI, an anticipatory response to critics, discusses some conceptual difficulties in implementing and enforcing the UUC. Finally, Part VII considers whether the UUC is simply part of a vast, right-wing conspiracy. (The answer is no.)

#### I. THE CHILDLIKE PROFESSORiate

“There is something about the combination of denim and tenure that is inherently preposterous.”

—Roger Kimball<sup>31</sup>

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27. I figured that if I put “code” in the title and dropped hints about secret societies (Do you know what the Brooks Brothers really do?), I could make inroads on Dan Brown’s market. (Maybe the UUC should be called the Givenchy Code.)

28. Other iron laws have more steam. See, e.g., ROBERT MICHELS, *THE IRON LAW OF OLIGARCHY*, reprinted in *POWER IN MODERN SOCIETIES* 111 (Marvin E. Olson & Martin D. Marger eds., Westview Press 1993); see also Vanessa O’Connell, *If Your Shirt Is Made of Corn Fiber, Forget About Using an Iron*, WALL ST. J., June 15, 2006, at A1.

29. GLANVILLE WILLIAMS, *LEARNING THE LAW* 210 (11th ed. 1982) (footnote omitted).

30. Schneider, *supra* note 12, at A12.

31. Roger Kimball, *Whose Enlightenment is It?*, NEW CRITERION, Apr. 1996, at 4, 5.

Why the problem with professorial dress? Professors might be grown-ups chronologically, but, if you've ever attended a faculty meeting, you'd have doubts about whether we've gotten the behavior patterns right. We revel in childishness and dress accordingly.<sup>32</sup> As Joseph Epstein explains,

[o]ne of the divisions of the contemporary world is between those who are prepared to dress (roughly) their age and those who see clothes as a means to fight off age. . . . I know of associate deans who never wear neckties. Others—balding, paunchy, droopy-lidded—have not had a fabric other than denim touch their hindquarters for decades. They, poor dears, believe they are staying young.<sup>33</sup>

Paul Fussell concurs: "[T]he only effect of wearing tight jeans on the middleaged and elderly is a false conviction of recovered youth."<sup>34</sup>

All of this is to say we're trying—unsuccessfully—to look as young as our students,<sup>35</sup> and they get younger every year. There's self-denial involved, of course—trying to create a state of "eternal adolescence"<sup>36</sup>—and there's a lot of wistful staring in the mirror.<sup>37</sup> But

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32. Cf. EPSTEIN, *supra* note 9, at 143 ("Such informality [waiters' using first names] goes along with the gradual elimination of neckties and jackets, dresses and heels from the regular wardrobes of adults, or what used to be called—quaint term it now seems—grown-ups."); see also Thomas H. Benton, *The Year of Dressing Formally*, CHRON. HIGHER EDUC., Jan. 25, 2008, at C1 ("I . . . realized that, for the past seven years—while I was keeping my untenured backside glued to an office chair—I had . . . started to dress like I worked in a bait-and-tackle shop.").

33. EPSTEIN, *supra* note 9.

34. FUSSELL, *supra* note 17, at 55 (disagreeing with Umberto Eco's thoughts about the "effect of tight-fitting garments on intellectual ambition and achievement"); cf. TOM WOLFE, *I AM CHARLOTTE SIMMONS* 555 (2005) (describing a "butterball grotesquely squeezed into a dark gray sweater").

35. Or maybe even younger than that. Tom Wolfe describes a professor at his fictional Dupont University (where a lot of chemicals are used) who attained a quasi-prepubescent look:

[H]e had on a short-sleeved shirt that showed too much of his skinny, hairy arms, and denim shorts that showed too much of his gnarly, hairy legs. He looked for all the world like a seven-year-old who at the touch of a wand had become old, bald on top, and hairy everywhere else, an ossified seven-year-old . . . .

WOLFE, *supra* note 34, at 104-05.

36. John O'Sullivan, *The Manly Ideal; Gone, but not Forgotten*, NAT'L REV., July 3, 2000, at 21. Eternal adolescence is "symbolized by the wearing of casual clothes at

scruffily dressed faculty have specific goals in mind as well.

For one thing, male underdressing facilitates sexual poaching, or so it's hoped; even the oldest guys, with flab oozing from split inseams,<sup>38</sup> have a shot at conquests in the modern, libertarian marketplace.<sup>39</sup> And some sartorial underachievement has purportedly high-minded purposes, such as furthering a "nurturing" atmosphere in law school. The classroom setting should be non-confrontational, it's argued, with professors and students "hangin' out"<sup>40</sup> as buddies.<sup>41</sup> Indeed, the bonding is supposed to go beyond student-teacher relationships; dressing down illustrates a professorial "desire to fit in with the floor moppers and trash collectors and not be recognized as trained professionals."<sup>42</sup> Duncan Kennedy, call your office.<sup>43</sup>

## II. DIFFERENTIATING THE PROFESSORIAL FROM THE STUDENT BODY

"I discover that if I buy my suits at Brooks Brothers and look like a banker, it is much easier to get Harvard students to believe what I am telling them."

—Bob Lamb, radical economist<sup>44</sup>

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weddings, funerals, and even leveraged buyouts." In contrast, consider actors of the 1940s, "like Cary Grant or Spencer Tracy . . . [who] wore suits, went to offices, drank cocktails, danced fox trots, and solved problems." *Id.*

37. Cf. EPSTEIN, *supra* note 9, at 283 (quoting David Frum about a classmate at a Harvard Law School reunion) ("In his blue jeans, Eddie Bauer shirt, and hiking boots, he was hanging on to the appurtenances of youth as desperately as ever. But not even the most adamantly anti-ageist student could fail to notice that he had irrevocably passed his 50th birthday.").

38. Seam stress requiring a seamstress; as you rip, so shall you sew.

39. *But see infra* note 76 (discussing effect of neckties on sexual predation).

40. *See supra* note 9 and accompanying text (discussing related form of hanging out).

41. T-shirts lead to T-groups. Cf. PEGGY NOONAN, *THE CASE AGAINST HILLARY CLINTON* 139 (2000):

And [the union] wouldn't even allow the teachers—their clients! the ones who pay the dues!—to get the students to obey a dress code. They were showing up in cutoffs and undershirts. The girls in tenth grade, they were wearing little T-shirts—it was like everyone was in their underwear! But the union did one thing: They made sure teachers could dress bad too. So now they can wear jeans and T-shirts.

42. FUSSELL, *supra* note 17, at 156 (writing about changes in nurses' attire).

43. *See* DUNCAN KENNEDY, *LEGAL EDUCATION AND THE REPRODUCTION OF HIERARCHY: A POLEMIC AGAINST THE SYSTEM* 79 (1983) (arguing for, among other things, equalizing professorial and janitorial compensation).

44. ARTHUR M. SCHLESINGER, JR., *A LIFE IN THE TWENTIETH CENTURY: INNOCENT BEGINNINGS, 1917-1950* 157 (2000). "Brooks Brothers" used to be a shorthand way to



The bonding doesn't work, except maybe for poaching purposes. Bonding is a nice idea only if you don't expect intellectual activity to follow. If professor and student are operating at the same level, that level will be the student's—a recipe for dumbing down, not smartening up.<sup>45</sup>

Joseph Epstein taught “in a necktie, for [he] like[s] the distance it puts between the students and [him].”<sup>46</sup> Quite right. Maintaining the distinction between professor and student is necessary to make it clear that professor and students aren't equals—at least not until it's time to solicit donations to the law school.<sup>47</sup>

In fact, leveling doesn't work that well outside the classroom either.<sup>48</sup> Epstein describes the contempt a stonemason felt for a law professor, William Ian Miller of Michigan, who “rode up on [his] bicycle, backpack on [his] back, to say hello” as the mason was working on Miller's house: “‘He a teacher?’ the man asked Miller's wife.” As Epstein reports, “[t]he man straightaway saw [Miller] as ‘a feminized male,’ from which

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connote class and cost. See, e.g., MARY MCCARTHY, *THE MAN IN THE BROOKS BROTHERS SHIRT* (1942), reprinted in *SIXTY YEARS OF GREAT FICTION FROM PARTISAN REVIEW* at 57 (William Phillips ed. 1996) (“For the first time in her life, she truly hated Brooks Brothers and Bergdorf Goodman and Chanel and furs and good food.”). As it has tried to become trendy, however, Brooks has lost its reason for existence. Why go there to get the same stuff you can find anywhere else? See Joseph Epstein, *The Eppy and Other Jackets*, WKLY. STANDARD, Feb. 26, 2001, at 4 (“I buy most of my clothes at Brooks Brothers, a store that was practically a cult when I was young and has by now been so long on the slippery slope of mediocrity that it ought to require its salesmen to carry a set of *pioletts*.”). Yup, Brooks Brothers as a cult. See *supra* note 27.

45. Unless, of course, the students are the very bright folks editing this journal.

46. Epstein, *supra* note 19, at 4. Epstein adds, “I also prefer to fly wearing a necktie, perhaps because, should the plane go down, I wouldn't want to meet my Maker underdressed.” *Id.*

47. Jay Parini mentions Isaiah Berlin, whose “clothes signal[led] a strong desire to be regarded as a man whose authority was based on his classical education, his fine intelligence, and his genuine intellectual achievements; they also linked him, via pinstripe, to the world of bankers, lawyers, and members of Parliament.” Jay Parini, *By Their Clothes Ye Shall Know Them*, CHRON. HIGHER EDUC., Dec. 21, 2001, at 24. Not a bad signal.

48. Cf. Danielle Crittenden, *The Rake's Progress*, WKLY. STANDARD, Feb. 22, 1999, at 15, 16:

[That] is why Republicans make a mistake when they try to remodel themselves in ways they hope female voters will find more attractive—trading in their suits and ties for casual shirts and chinos, speaking like New Men, oozing compassion and sympathy. They only end up coming off as the Nice Guy character who is always dumped for the Rake.

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perception his contempt flowed."<sup>49</sup>

Stylish dress once represented a quest for excellence, as Donald Kagan notes in a paean to Joltin' Joe:

[H]is day was not ours. America was a democracy, but of a different kind. Its people were more respectful of excellence, both of matter and manner, prepared to follow the leadership of those they deemed superior in achievement and "class." People wanted to behave according to a higher and better code<sup>50</sup> because they believed that in doing so they would themselves become better, worthier, "classier." Those who are too young to remember should look at the movies and photographs of games at Yankee Stadium in DiMaggio's day. The men wore white shirts and ties under coats and hats, the proper attire in public, even at a ball game. People were . . . not insulted by the notion that another way of life might be better than their own.<sup>51</sup>

Until the end of his life (and thereafter through interment), Joe DiMaggio was stylishly dressed himself. Unless he was in a baseball uniform, he was seldom seen without a suit. Joe D. knew his fundamentals (no designated hitters, no metal bats). Where have you gone, Joe DiMaggio?<sup>52</sup>

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49. EPSTEIN, *supra* note 9, at 277. And Epstein doesn't cotton to Miller's getup either:

I have to add, though a sometime university teacher myself, as soon as Miller rode up on that bike wearing that backpack, I, too, felt an involuntary touch of contempt for him . . . boppin' around in what is essentially the garb of a student. . . . Had he returned home in suit or jacket and tie, my guess is that the mason would not have seemed in the least contemptuous of him. . . . I don't even require a jacket and tie. But I cannot bear that backpack on anyone over thirty.

*Id.* at 277-78.

50. Presumably the UUC, not the common code (which the UUC is a cure for).

51. Donald Kagan, *Joe DiMaggio, Baseball's Aristocrat*, WKLY. STANDARD, Mar. 22, 1999, at 23, 25; *see also* JOE POSNANSKI, THE SOUL OF BASEBALL 102-103 (2007) (quoting Buck O'Neil):

I miss the way everyone used to get dressed up for a ballgame. Yeah. Men used to come to our games right after church, and they looked sharp. The women wore their best dresses and the newest hats, looking pretty, it was something to see . . . But . . . times change. The whole world's gone casual.

52. Yes, I know Joe D. was a schmuck, but, with his clothing, he pulled the wool over people's eyes. It can work for you, too. *Cf.* Anthony Daniels, *Another Side of Paradise*, NEW CRITERION, Sept. 2007, at 12, 12 ("[O]ne of the Queen's physicians . . . was learned,

## III. CIVILITY

People act better—less like carnivores—when they're dressed appropriately.<sup>53</sup> Not always, of course, but we're talking about probabilities here. If the professor is sending a signal of seriousness, of civility, students will pick it up.<sup>54</sup> Maybe that's why, in *civil* procedure, students learn about puttin' on the writs.

Donald Kagan's reminiscence about Joe DiMaggio notes the attire worn at baseball games in the early twentieth century.<sup>55</sup> Russell Baker thinks the shift to shiftlessness—turning to other than chic, as it were<sup>56</sup>—occurred in the 1960s, and it wasn't limited to clothing:

People [then] had so much money that they could afford to look poor. Men quit wearing fedoras and three-piece suits to Yankee Stadium and affected a hobo chic—all whiskers and no creases. Women quit buying hats and high-heeled shoes and started swearing like Marine sergeants.<sup>57</sup>

I defer to no one in my admiration for the Marines. But the world is not a better place when every f\*\*\*\*\* person is swearing like a g\*\*\*\*\* Marine sergeant—and dressing in hobo chic.

## IV. THE UUC

“Copy the dress of respected members of the Bar. A man should

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suave, and wore the most beautifully tailored gray flannel suit. If I couldn't be learned or suave, I could at least have a suit like his.”).

53. Cf. Lexington, *Mitt and the Monkey*, ECONOMIST, Aug. 18, 2007 (noting that “Iowa Republicans are not a suit-wearing crowd. They are . . . in politics for the red meat . . .”).

54. See Mary Kane, *No Suit, No Tie—No Civility? The Casual Workplace Can Degenerate into a Rude and Dispiriting Abyss*, CLEV. PLAIN DEALER, Oct. 8, 1999, at 11B. Rudy Giuliani's campaign to make New Yorkers more civil included a proposal that teachers observe dress codes. William Tucker, *If Civility Can Make It Here, It Can Make It Anywhere*, WALL. ST. J., Mar. 11, 1998, at A20.

55. See *supra* text accompanying note 51. You old guys remember how centerfield bleacher seats wouldn't be sold because hitters would have trouble seeing the ball in a sea of white shirts. White shirts! (And not T-shirts.) That level of formality is a bit much even for me; dressing up shouldn't cause heat stroke. See Charlie LeDuff, *Office Dress: Baseball Casual*, N.Y. TIMES, July 27, 2001, at A17.

56. See *supra* note 8 and accompanying text (discussing turned cheeks).

57. Russell Baker, *Out of Step with the World*, N.Y. REV. BOOKS, Sept. 20, 2001, at 10, 10 (reviewing books by Joseph Mitchell).

wear a dark suit and sober shirt, and a woman their equivalent. I hardly need add that men should remember the importance of regular haircuts.”

—Glanville Williams<sup>58</sup>

A settled set of expectations about faculty dress is not a new phenomenon. Reflecting upon his college teaching career, Paul Fussell notes that “practically compulsory was the daily get-up of gray flannel trousers and tweed jacket, often, of course, with leather elbow patches, suggestive at once of two honorable conditions: poverty and learning.”<sup>59</sup>

When tweed was no longer boss, the academy didn’t move to a standardless system. Scruffiness just replaced taste. At Tom Wolfe’s fictional Dupont University, for example, “the current fashion among male professors . . . was scrupulously improper[.] cheap-looking shirts, open at the throat, needless to say, and cotton pants with no creases—jeans, khakis, corduroys—to distinguish themselves from the mob, which is to say, the middle class.”<sup>60</sup> But not to distinguish themselves from the students.

Our goal should be to replace the “scrupulously improper” with the scrupulously proper. Here’s a draft Uniform Uniform Code to do that:

**§ 1-101. Short Title.**

**This statute shall be known and may be cited as the Uniform Uniform Code.**<sup>61</sup>

**§ 2-101. Longer Stuff.**

**Faculty members at accredited law schools shall, when on law school grounds or on law school business, dress in a way that would not embarrass their mothers, unless their mothers are under age fifty and are therefore likely to be**

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58. WILLIAMS, *supra* note 29, at 196.

59. FUSSELL, *supra* note 17, at 3.

60. WOLFE, *supra* note 34, at 304.

61. This parrots the opening stanza of an older version of the Uniform Commercial Code (still in effect in many states). I have always thought a study of short titles would be a worthwhile academic endeavor (particularly compared to other things I do); *see, e.g., supra & infra* (and whatever comes between *supra* and *infra*) notes 1-126 and accompanying text. Is there a significant difference between “shall be known and may be cited” and “may be known and shall be cited”? Heavy stuff. The Commissioners have now taken the fun away by providing only that the act “may be cited as the Uniform Commercial Code.” U.C.C. § 1-101 (2004). It’s up to us to figure out how the UCC may (or shall) be known.

**immune to the possibility of embarrassment from scruffy dressing, in which case the faculty members shall dress in a way that would not embarrass my mother.**

That's it; brevity works in statutory drafting even if it doesn't for attire. And the fact that there might be difficult interpretive issues at the margin doesn't invalidate the idea. (Unlike good clothing, a statute can't cover *everything*.) Anyway, this is a draft, and we can engage in evasion as necessary. Maybe your mother is better than mine for this purpose;<sup>62</sup> the phrase "my mother" probably doesn't work that well for a statute of general application; perhaps the key age for mothers who care about sartorial matters should be sixty (seventy? eighty?) rather than fifty. Whatever figure is adopted, it will have to be adjusted periodically to capture societal changes (inevitably downward) in mothers' (other than my mother's) standards.<sup>63</sup>

So make a change or two if you wish, and then interpret the UUC using principles of reasonableness. When in doubt about appropriate dress, check what people were wearing twenty or thirty years ago; it's usually safe to dress in the "style-before-last."<sup>64</sup> (Or, it was safe until recently. If we don't act fast, the style-before-last will become unacceptable.) For men, the default rule is simple: "You can't go wrong with the classic navy blue blazer and khakis."<sup>65</sup>

Sanctions for violators? I guess not. I'd like to take 'em to the cleaners, but you'd wind up with idiots charging breaches of academic freedom if they were punished for exposing themselves in class. At a minimum, however, violators ought to be subjected to a dressing down in public for dressing down in public.

#### V. AN ASIDE: THE TIE FOR MEN

Are ties really that important?

Yes.<sup>66</sup> Let's now move on to Part VI . . . .

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62. Oh yeah?! Wanna fight?

63. If your mother is Britney Spears, forget about all of this. You have *no chance*.

64. See NOEL ANNAN, *THE DONS* 18 (Univ. of Chicago Press 1999) ("The gentlemanly Arthur Benson, Sidgwick's nephew, opined that a don should be well dressed in the style-before-last and obeyed this precept by wearing shapeless flannels.").

65. FUSSELL, *supra* note 17, at 178. In fact, you can be buried in that outfit and go out in a blazer of glory.

66. Except, apparently, for Barack Obama. *But see* Ray A. Smith, *Pulling Off the Obama Look*, WALL ST. J., June 9, 2007, at P1, P5 (noting that while going tieless might

Oh, I suppose I should expand on this knotty<sup>67</sup> issue a bit.

The tie is important because it has always been important, and its importance makes it important. You don't change what has been taken for granted without a good reason for doing so. The tie "is the linchpin of the modern wardrobe,"<sup>68</sup> and that has been true for decades. Edward Shils described the legendary Chicago professor of social thought, John Nef: "Of course [yes, *of course!*], in [the 1930s], all professors wore neckties. But John Nef was dressed with taste. Even in those days, when professors were not the ragged lot which they have since become, John Nef's refinement and taste stood out."<sup>69</sup>

One purpose of the tie is to show seriousness—respect for the subject, the students, and oneself (whether or not one really feels respect for any of those things).<sup>70</sup> Paul Fussell says ties "serve no purpose except vanity,"<sup>71</sup> but striking a blow for civilization is a pretty good purpose.<sup>72</sup> And Federal Reserve Chairman Ben Bernanke, who once wore sloppy professorial attire,<sup>73</sup> has been praised for his "electric blue tie," which "helps hold an audience's attention."<sup>74</sup> That's got to be a plus for the law pros (a few of us remain) who don't fill up class time showing movies.

Is a bow tie a "tie" for these purposes? Because of its long-time tie to the academy, the answer is (grudgingly) yes. Not having caught up with

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"convey youthfulness and openness to change," it could also "reinforce any issues regarding whether he has enough experience or gravitas to be president").

67. And maybe naughty, too. *See infra* note 76.

68. ANTONGIAVANNI, *supra* note 15, at 143.

69. EDWARD SHILS, *PORTRAITS: A GALLERY OF INTELLECTUALS* 236 (1997).

70. *See* Jill Schachner Chanen, *Business Casual 101: Associate-to-be Learns Dressing Down is Simply Dressing Up, With a Twist*, A.B.A. J., Aug. 2005, at 58 (quoting a "professional attire expert": "Ties show that you respect your peers, your position and your environment."). It should go without saying, but won't, that the tie is worn with a long-sleeved shirt. *Cf.* David Colman, *Dilbert Doesn't Work Here Anymore Dress Codes*, N.Y. TIMES, June 15, 2006, at G5 ("[T]he short-sleeved shirt is the Dilbert of men's wear, redolent of rocket scientists and substitute teachers.").

71. FUSSELL, *supra* note 17, at 77. Stanley Marcus, of Nieman-Marcus fame, said he had "never found a man who *needs* a necktie. . . . But he may be fascinated with the colour, or the design, and he *wants* it." *Quoted in Stanley Marcus Obituary*, ECONOMIST, Feb. 2, 2002, at 82 (emphasis added).

72. *Cf.* Andrew Higgins, *A Word to the Wise in Iran: Don't Ever Wear a Tie to Work*, WALL ST. J., May 12, 2007, at A1.

73. He complained that "the biggest drawback to his job as a Fed governor was having to wear a suit." Ray A. Smith, *Sartorial Signals from the Fed*, WALL ST. J., June 17, 2006, at P4.

74. *Id.* (reporting views of "image consultant Lynne Marks").

what professors actually wear,

the multitude considers bow tie wearers odd or at best professorial, so that if you are not a professor and do not wish to be taken for one, and are not so eminent that it does not matter what you wear, you must be careful to wear them only in whimsical situations . . . .<sup>75</sup>

But if you *are* a professor (and don't mind being taken for one), you're OK with a bow tie.<sup>76</sup>

#### VI. CONCEPTUAL DIFFICULTIES IN DRAFTING AND ENFORCING THE UUC

Skeptics of my project, of which there are many—all of them poorly dressed—see the whole thing as hopeless. In this part of the article, I'll deal with some of the most common criticisms I've heard in informal discussion.<sup>77</sup>

##### A. Geography

How, skeptics ask, can I draft a *uniform* uniform code for the American legal academy when the climate varies so much across the

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75. ANTONGIAVANNI, *supra* note 15, at 150.

76. "Arthur M. Schlesinger, Jr., . . . favors bow ties, but because he really is a professor, he does not suffer for it." *Id.* One final point about ties has to be hidden in a footnote so as not to destroy the otherwise tasteful tone of this essay. One commentator has compellingly compared the campaign to get rid of ties to the silliness of bra-burning. He ridiculed, among others, Prince Claus of the Netherlands, who joyfully threw off his tie, calling it "a snake around my neck:"

These poor souls blame the tie for choking them when in fact it's nothing more than a half-size in their shirt, an overextended mortgage, and a midlife crisis looking for an angle . . . . A great tie can get a man laid or promoted. Heck, you can't say that about a bra.

Lauren Goldstein, *Bye-Bye, Tie? We Don't Think So*, FORTUNE, Feb. 1, 1999, at 136. As far as I can tell, this doesn't work with ties either. Except in soccer, I've not heard of a tie score. Nevertheless, for those inclined to dress down to facilitate sexual conquest, see *supra* notes 38-39 and accompanying text, this might cause second thoughts. (Ties do work for promotions. Fussell describes a 1970s study by John T. Molloy, author of *Dress for Success*, which concluded that "[i]nvariably . . . those men who wore their ties to interviews were offered jobs; those without them were turned down." FUSSELL, *supra* note 17, at 178.)

77. It was the *discussion* that was informal, not the dress (on my part anyway).

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country?<sup>78</sup> Isn't it inevitable that appropriate dress for the fruited plains will be different from that for the purple mountains?

At one level, of course it's inevitable. When Florida professors teach in Maine, their dress should meet the appropriate Maine academic standards—or what will be the appropriate Maine academic standards after this article exerts its influence—and vice-versa. It's sort of an *Erie* principle for attire.<sup>79</sup>

But that doesn't mean anything goes.<sup>80</sup> A thick flannel suit might not be appropriate in Florida in August,<sup>81</sup> but shorts and sandals don't automatically become *de rigeur*. Moms know how to dress in Maine and Florida and so should you. And wherever you are, teaching law should be a thongless task.<sup>82</sup>

*B. The Sex Question*

Ah, that does always come up, doesn't it? Yes, we have a sense of traditionally appropriate menswear. The default principle was enunciated by Jeffrey Hart: "[A]ny male professor who comes to class without a jacket and tie should be regarded with extreme prejudice unless he has won a Nobel Prize."<sup>83</sup>

But this isn't a males-only profession anymore. Who's to say how the Hart principle, even if it has merit in the abstract, should apply to the formerly fairer sex?

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78. I mean weather, not intellectual climate. Cf. Charles Fried, *Diversity: From Left to Far Left*, WASH. POST, Jan. 3, 2000, at A19 (noting opinions favored by Association of American Law Schools run the "gamut . . . from left to far left").

79. See Christina Binkley, *Cracking the Dress Code in L.A.*, New York, *Business Travelers Still Need Two Wardrobes to Span Gap; Your Suit's Hidden Message*, WALL ST. J., June 14, 2007, at D8 (noting that "important regional variations in dress codes remain [in place] for [both] women and men").

80. See COLE PORTER, *ANYTHING GOES* (1934):

In olden days a glimpse of stocking  
Was looked on as something shocking,  
But now, God knows,  
Anything goes.

But Porter didn't mean it. See COLE PORTER, *YOU'RE THE TOP* (1934) ("You're the top . . . . You're an arrow collar.").

81. Cf. Daniels, *supra* note 52, at 12 (seeing decline in sales of flannel as "indisputable consequence of global warming").

82. See *supra* note 8.

83. Jeffrey Hart, *How to Get a College Education*, NAT'L REV., Sept. 30, 1996, at 34, 38. And law professors don't win Nobel Prizes, except in Chicago.



Me, that's who. The rule that applies to women is the feminine equivalent of the standard that applies to men. This isn't hopelessly vague. Ask female associates at one of the remaining Wall Street law firms that haven't succumbed to perpetual casual day whether there's serious uncertainty about appropriate dress, even though women can't rely on the safe harbor of the pin-striped, vested suit. They may not like it, but they know what to wear.<sup>84</sup>

Are pants acceptable? Of course, in the right climate at the right time. Color of suit? Maybe it depends on what you're doing.<sup>85</sup> Ask your mother.<sup>86</sup>

Besides, academic women aren't navigating without a rudder. Women profs have a style guide prepared for them: Emily Toth's *Ms. Mentor's Impeccable Advice for Women in Academia*. Some of Ms. Mentor's more important standards are:

1. Avoid poufy sleeves.<sup>87</sup>
2. Dress frumpily.<sup>88</sup>
3. Act like an old fart.<sup>89</sup>

All good advice and about all you need to know.

In contrast, Justice Ruth Bader Ginsburg doesn't get it:

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84. Cf. Christina Binkley, *Wall Street Women: Dress Code of Silence*, WALL. ST. J., Mar. 22, 2007, at D1 (noting that women in finance dress more conservatively than men and "don't talk about fashion openly, for fear of appearing frivolous"); see also Susan Lehman, *Firm Hillary*, AM. LAW., Mar. 2008 at 73 (quoting fictional female lawyer: "I am here to do business. I am in it to win. I will eat eat your entrails for breakfast (and bill you for it) but I will not stain my Thomas Pink blouse as I do so.").

85. See Tony Mauro, *Reluctant Rehnquist Chief Justice in Spotlight He'd Just as Soon Avoid*, USA TODAY, Jan. 7, 1999, at 1A, 2A ("Two years ago, Rehnquist complained to the Justice Department that one of its female lawyers had appeared before the court in a brown dress, not the preferred black or navy blue.").

86. Assuming she's over fifty, or sixty, or seventy. If not, ask my mother. See *supra* notes 61-64 and accompanying text.

87. EMILY TOTH, *MS. MENTOR'S IMPECCABLE ADVICE FOR WOMEN IN ACADEMIA*, at x (1997) ("[T]he personal is political: poufy sleeves are not powerful.").

88. *Id.* at 47 ("It is difficult for many academic men, who do the hiring and judging, to take young women seriously. It is impossible if the young women are not dressed in a mature, even slightly frumpy manner.").

89. See *id.* at 86-87 ("Another way to enhance your authority is to appear older. . . . Speak in a lower voice register; frost your hair and cut it short. Wear long skirts in dark or neutral colors; wear glasses; avoid obvious makeup.").

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Although women now hold high positions throughout the justice system, Ginsburg said the fight for equal treatment goes on. She recalled a Supreme Court session where police assigned to the court tried to evict a newspaper editor for violating the dress code. The police thought the woman was wearing a T-shirt, but her blouse was part of an expensive designer outfit.<sup>90</sup>

A former academic, Justice Ginsburg seems to think slovenliness is OK as long as it costs a lot. The whole point of traditional dress, however, is that you know it's all right without having to check the price tag.

The most difficult question facing women, or so I'm told, is the propriety of open-toed shoes.<sup>91</sup> (Yes guys, even in our digital age, this is an issue facing women only. Outside the family, male feet should be exposed only at the beach, in the podiatrist's office, or as the mortician does whatever he or she does.<sup>92,93</sup>) But the controlling rule is easy. As the managing partner of a major law firm put it, "[i]f you have to ask if the clothing is appropriate, chances are it's not."<sup>94</sup>

*C. Inside the Classroom Versus Sitting in the Office*

Maybe it should make a difference that a faculty member will not be teaching on a particular day. Perhaps in that case dress can be more casual. I'll take this issue—is class reserved for class?—under advisement, but the guiding consideration ought to be: You're a professional; dress like one.<sup>95</sup>

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90. *People Watch*, CLEV. PLAIN DEALER, Mar. 11, 2002, at C2.

91. High heels are OK these days because they "indicate power." Christina Binkley, *Heelpolitik: The Power of the Stiletto*, WALL ST. J., Aug. 2, 2007, at D8 (quoting power heel designer Stuart Weitzman).

92. *But see* Waxman, *supra* note 21, at E5 ("With nearly naked feet making their way into serious business meetings, the slide toward casual may be irreversible."). But that's California, which can't set the standard for "serious" business meetings—*gulp*—can it?

93. I left this parenthetical in the text, but it's really a footnote.

94. Pristin, *supra* note 24, at B1 (quoting chair of Winthrop Stimson). And maybe there's not really a question here. *See* JEREMY BLACHMAN, ANONYMOUS LAWYER 24 (2006) ("You'd be surprised what some of the summer associates think they can get away with. Jeans, T-shirts, bold colors like green and brown, ties with unapproved patterns, and even open-toed shoes.") (emphasis added).

95. *Mea culpa*, I've been known not to wear a tie to the office during the summer, and, as I write this passage, my neck is exposed (in more ways than one).

*D. The Dissidents and the Tasteless*

Skeptics have also argued that any written rules or standards can be manipulated. I concede the point. There will always be dissidents who purposely flout any rules and are immune to standards of good taste. If the rules say coat-and-tie, the dissident will break the code's spirit by wearing the CAT with shorts and sandals, or something else equally atrocious. You know who you are, and you should be ashamed of yourself.<sup>96</sup>

And there will be those who act in good faith to meet the letter of the rules but whose taste (or whose mother's taste) is unbelievably bad.<sup>97</sup> Is wearing any CAT good enough? What about an iridescent green suit that whispers "Chernobyl"? Or suppose attire that otherwise would have been acceptable is decorated with food stains from last winter's breakfasts—stains that the academic, focused on doing the intellectual work of the world, is oblivious to. Believe it or not, I'm sympathetic to clueless profs (and clueless moms). Rules are rules, but in enforcing them, we should be sensitive to the feelings of those who are severely disturbed.

## VII. THE POLITICAL OVER- AND UNDERTONES OF THE UUC

Oh, I hear you say, here's another political reactionary (true enough) trying to impose his antiquated views on a populace that has moved beyond such nonsense.<sup>98</sup> He's quoted such disreputable publications as the *National Review*, *Weekly Standard*, and *American Spectator*. Why doesn't he throw in a little Rush Limbaugh or Jerry Falwell?<sup>99</sup>

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96. Cf. ANTONGIAVANNI, *supra* note 15, at 87-88:

Whoever looks down at the [shoes] of David Letterman or Donald Rumsfeld will see sneakers, even when they are wearing suits. This cannot be called an error, since it is so uncouth that even they must know the violence they are doing to their own appearance and to good taste.

97. See Chanen, *supra* note 26, at 60 (quoting attire expert: "[Y]ou can follow all the rules and still look like an absolute mess."). Good taste isn't infinitely malleable, although it does change. In the 1930s, red-baiting Justice McReynolds provided sartorial advice that would not pass muster today: "Don't ever wear a red tie. It is much too effeminate for a lawyer to do. I don't like red ties!" KNOX, *supra* note 5, at 73.

98. Early in my career, some students asked (so I was told) whether I wear button-down pajamas. I took that as a compliment.

99. OK, I will. The Liberty University School of Law has a dress code, forbidding, among other things, "frayed or faded collared shirts"; denim; "Birkenstock-type or thong-

Well, it isn't just the reactionaries who have a sense of propriety. Ralph Nader, for example, "certainly dresses conservatively. The Green Party convention may have been a gathering of the Birkenstock brigades, but you almost never see Nader out of his gray suit, white shirt, and red tie."<sup>100</sup> Nader wants to be taken seriously, and so should you.<sup>101</sup>

There *is* a political component to this, of course: "Academic wardrobe selection can involve ideology, discipline, and job-hunting strategy."<sup>102</sup> As Roger Kimball explains, "[i]t may seem like a small thing that nearly everyone of whatever age dresses in blue jeans now; but the universalization of that badge of the counterculture speaks volumes."<sup>103</sup> The counterculture, with its material defect,<sup>104</sup> has been institutionalized in the academy.<sup>105</sup>

Jay Parini defends F. R. Leavis, who "had made a name for himself by refusing to wear a tie at Cambridge."<sup>106</sup> In part Leavis wanted to signal his intellectual isolation, but his tielessness also advertised that he "identified with the political left." That was acceptable, desirable even, Parini says, because "[t]eaching is, after all, a performance art, and, whether or not we want to believe it, we're putting on a costume of sorts every day."<sup>107</sup> Students "find clues to our attitudes toward the world, even our politics, in the styles we assume . . . . It pays to think of clothing

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style sandals"; hats or caps; and the "exhibition of 'non-traditional' jewelry (i.e., wearing of earrings by male students, nose or belly-button piercing by any student)." <http://www.liberty.edu/academics/law/index.cfm?PID=6253>.

100. David Brooks, *Ralph Nader, Conservative Wannabe*, WKLY. STANDARD, July 31, 2000, at 26.

101. It didn't work in his case, but it might in yours.

102. Schneider, *supra* note 12, at A12.

103. ROGER KIMBALL, THE LONG MARCH 10 (2000); *see also* WOLFE, *supra* note 34, at 554:

Look at him . . . in his late fifties . . . him and his Lenin goatee, his shapeless, baggy, unpressed khaki pants and a grim gray sweater so tight it hugged every fold and flop of his upper body . . . . What is this look, this getup, supposed to represent? His aloofness from the Neckties and Dark Blue Suits . . . who still run the world? His solidarity with rebelling youth (if any)? Or just a simple eternal adolescent poke in the eye? A combination of all that, probably.

104. Denim is *not* the fabric of the law.

105. *See generally* Roger Kimball, *Tenured Radicals* (1990).

106. Parini, *supra* note 47, at 24. It has apparently become easier to distinguish oneself at Cambridge since the days of Sir Isaac Newton.

107. *Id.* Teaching is performance art, and it ought to be coupled with performance scholarship. *See* Erik M. Jensen, *Performance Scholarship and the Internal Revenue Code*, 29 HOUS. L. REV. 429 (1992). I'll be glad to perform this article (in coat and tie, of course). But hurry! Dates are going fast.

as a rhetorical choice, and to dress accordingly."<sup>108</sup>

Yes, a rhetorical choice is involved; that's why professors should dress in boringly similar, yet tasteful, ways. As Ms. Mentor notes, "[i]f your students are obsessed with what you look like, you've lost their academic attention."<sup>109</sup> By following the UUC, we limit the extent to which students speculate about our politics instead of focusing on course work. Parini may want his students to ponder his politics—although not much speculation seems to be necessary in his case—but I don't want mine ponderously pondering mine.

### VIII. CONCLUSION

Does any of this really matter? Judge Richard Posner, who can hide suspect attire under his judicial robes,<sup>110</sup> questions whether there has in fact been a societal decline in dress and wonders why anyone should care one way or the other. He ridicules the sainted Jacques Barzun, who has written that "[t]o appear unkempt, undressed, and for perfection unwashed, is the key signature of the whole age."<sup>111</sup> "This is absurd, and not only because Americans, however casually they dress, remain fanatical about hygiene."<sup>112</sup> It is absurd in its insistence that every change in culture, even so mutable an aspect of culture as the dress code,<sup>113</sup> is fraught with menace."<sup>114</sup>

And, the Judge wonders, a decline from what?

[M]ost declinists at least specify a benchmark. But it is difficult

108. Parini, *supra* note 47, at 24.

109. TOTH, *supra* note 87, at 87; *see also* Smith, *supra* note 73, at P4 (quoting an "image consultant" to the effect that Fed chairman needs "a high level of consistency in his dress as consistency will give people a sense of trust in his performance"). *But see* Schneider, *supra* note 12, at A12 (quoting Elaine Showalter who has "been trying to make the life of the mind coexist with the day at the mall").

110. Robes don't cover everything. *See* Heather Gehlert, *Bobblehead Justices Help Journal Promote the Lighter Side of Law*, L.A. TIMES, July 3, 2006, at A16 (noting that Scalia doll has "brown shoes clash[ing] with his black judicial robe to show his devil-may-care attitude toward fashion").

111. JACQUES BARZUN, *FROM DAWN TO DECADENCE: 500 YEARS OF WESTERN CULTURAL LIFE: 1500 TO THE PRESENT* 781 (2000).

112. The judge must not spend a lot of time riding subways.

113. At least the judge concedes that there is a dress code, even if it's mutating. And so we're left with a mutant.

114. RICHARD A. POSNER, *PUBLIC INTELLECTUALS: A STUDY OF DECLINE* 308-09 (2001).

even to identify the golden age of formal dress. Barzun scatters no clues. Are coat and tie formality enough? Or must the soft collar give way to the stiff detachable collar, or perhaps to the ruff? Must women wear corsets, and must men dress (that is, put on a tuxedo) for dinner?<sup>115</sup>

Judge Posner gets the crowd snickering with his riff on the ruff (going back to ruff times is not a bad idea, by the way), but his point is stretched beyond the breaking point for Spandex. If well-dressed, any first-year law student should be able to attack Judge Posner's implicit position that, just because we can't draw a bright line that everyone would agree on, no distinctions between acceptable and unacceptable are possible.<sup>116</sup>

It's true that, even in the academic golden age,<sup>117</sup> there were outliers—those who refused to follow conventions when the conventions had merit—and in that respect there has been no decline. But the great unwashed were once viewed with disdain, rather than being celebrated.

For example, Edward Larson describes a former Tennessee law professor, John Randolph Neal, who was dismissed from the faculty, but who went on to become one of the lawyers for John Scopes in the 1925

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115. *Id.* at 310.

116. The judge adds the obligatory economic analysis, leading to the unsurprising conclusion that sloppiness is economically efficient. (When reading the following, you might want to put on your suspenders of disbelief.)

What the movement to casual dress may signify is a recession of theatricality as a mode of organizing social interactions [yes, *I was thinking exactly the same thing!*], together with a rising cost of time (it takes longer to select, dress in, and undress from formal dress). . . . We would . . . expect a movement to casual dress because formal dress is less comfortable and generally more expensive, especially when time costs are figured in.

*Id.* at 309. But, as critics of casual days have emphasized, deciding what to wear takes more time, and is more stressful, when guidelines are gone. See *supra* notes 24-26 and accompanying text. And let's extend the Posnerian argument. If questions of propriety don't matter, wouldn't we expect a movement to nudity in the workplace because, other than to keep warm and maybe to avoid sunburn, clothing makes no economic sense? Dressing takes longer than not dressing, and it's much more expensive. Hmm, now I really do wonder what is under those judicial robes . . . . (At least we know the judge wears shoes, unless his robe is really long. Cf. *supra* note 109.) Cf. Mike Shapiro, *Law and Laughter*, NAT'L L.J., Jan. 21, 2008 (cartoon depicting robed judge reacting to lawyer: "Can you repeat that? I was distracted by the realization that I'm not wearing pants.").

117. See SHILS, *supra* note 69 and accompanying text (noting Edward Shils's description of John Nef).

"Monkey Trial." Neal could walk into a faculty lounge today and, without having evolved a bit, fit right in:<sup>118</sup>

[A]ccording to his dean,<sup>119</sup> Neal never spent much time on campus—often arriving late (if at all) for class, devoting class time to rambling lectures about current political issues rather than to the course subject matter, and giving all his law students a grade of 95 without reading their exams. The dean also complained about Neal's "slovenly" dress, which later deteriorated into complete disregard for personal appearance and cleanliness.<sup>120</sup>

Neal treated the Scopes trial like a law school class, with a lot of hemming and hawing, plenty of untailored arguments, and no monkey suit: "Unwashed and unshave[n] as usual, he lectured the court in a manner reminiscent of his chaotic classroom teaching style."<sup>121</sup> Unseemly and unseamly.

People once believed proper dress matters, and some of us still do. Paul Fussell nevertheless disparages the cap-and-gown traditions that continue, to some extent, at the Oxbridge universities in England: "The object of all this daily gownery was apparently to confer dignity on intellectual and related operations, which, if genuine, don't need it."<sup>122</sup>

Oxford and Cambridge ooze dignity, but, for those of us in American law schools, there's every reason to be concerned about the genuineness of our operations.<sup>123</sup> We need to pump up the dignity level in any way we can,<sup>124</sup> and proper clothing helps to do that. (The international lawyers in particular should be dressing to the nines.<sup>125</sup> Instead, they specialize in wardrobe crimes.)

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118. That is, he would fit right in if anyone were there to fit in with. See Robin Wilson, *It's 10 a.m. Do You Know Where Your Professors Are?*, CHRON. HIGHER EDUC., Feb. 2, 2001, at A10, A11 (noting that people in a Boston University department "joke about colleagues who are never around: 'There was a sighting today'").

119. A dean's statement isn't very good authority, but we work with what we have.

120. EDWARD J. LARSON, *SUMMER FOR THE GODS* 79-80 (1997). Take that, Judge Posner! See *supra* text accompanying note 111 (stating that Americans are fanatical about personal hygiene).

121. LARSON, *supra* note 119, at 159.

122. FUSSELL, *supra* note 17, at 144-45.

123. When you think about law school, is "dignity" one of the first words to come to mind?

124. While we're pumping, let's also empty the jeans pool.

125. See DAVIES, *supra* note 23.

With or without caps and gowns, the Brits do do it better.<sup>126</sup> I end with the words of the legendary Glanville Williams. His book *Learning the Law* has provided advice, in edition after edition, to budding lawyers in the U.K. (As far as I know, no similar book exists in the U.S.)

Now here are some words of wisdom, after the manner of Polonius, on the delicate matter of your appearance. It is accepted that students can dress comfortably if inelegantly in jeans and pullovers, or in garb expressing a more extravagant fancy. What I want to say is that by the time you are thinking of a career you should be prepared to relinquish these carefree ways. Your acceptance and progress in any walk of life depends upon the judgment of an older generation (to which you will yourself shortly belong) and they will value conspicuous cleanliness, neatness and absence of undue ostentation in dress and hair style. Neither the Sex Discrimination Act nor the Race Relations Act prohibits discrimination on the ground of dress, and, to most members of selection committees, "dress" means approved European business or professional dress. So, if you are a man, buy a single-breasted suit, dark blue or dark grey, of conservative cut. Avoid wide lapels, buttons on pockets, fancy trimmings. Take a friend with you when you buy the suit, to assure you that the collar fits snugly. If there is any suspicion of the suit not fitting well, have it altered; see particularly that it is not too small. Women, similarly, should dress conservatively, without sexual display, in a way that betokens quiet efficiency rather than fashion. Remain a conformist when you start your job. It is a folly to let your appearance handicap your career.<sup>127</sup>

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126. The do do isn't deep, however (like this article). See also Ben Hallman, *Modern English*, AM. LAW., Oct. 2006, at 125 (describing English law firm Slaughter and May: "Note to the lawyer who once neglected to wear a necktie to lunch: Your colleagues have not forgotten.").

127. WILLIAMS, *supra* note 29, at 224. After Williams's death, *Learning the Law* was taken over by another Cambridge don. Professor A. T. H. Smith felt it necessary to reflect "alterations to the social and legal landscape," GLANVILLE WILLIAMS, *LEARNING THE LAW* (A. T. H. Smith ed., 12th ed., 2002), meaning, of course, that the book has been corrupted. The revision of the material quoted in the text now favorably mentions "dressing down" days and other such nonsense. *Id.* at 263. Happily, a computer rebelled at making some of the changes. The quoted passage now begins (really!), "*Nowhere* are some words of wisdom . . . on the delicate matter of your appearance." *Id.* (emphasis



American law professors shouldn't require such introductory advice, but—sorry, guys and gals—you do. That's why we need the UUC—and the help of our mothers.

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added). Nowhere indeed (until this article, that is).